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Legal Representatives for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JEAN MARIE SWAN  
150 Rankin Way, #118  
Benicia, CA 94510

Physical Therapist License No. PT 9262

Respondent.

Case No.

**A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.
2. On or about August 15, 1979, the Physical Therapy Board of California issued Physical Therapist License Number PT 9262 to Jean Marie Swan (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2005, unless renewed.

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1 licensee found guilty of unprofessional conduct to pay to the board a sum not to  
2 exceed the actual and reasonable costs of the investigation and prosecution of the  
3 case.

4 (b) The costs to be assessed shall be fixed by the administrative law judge  
5 and shall not in any event be increased by the board. When the board does not  
6 adopt a proposed decision and remands the case to an administrative law judge,  
7 the administrative law judge shall not increase the amount of the assessed costs  
8 specified in the proposed decision.

9 (c) When the payment directed in an order for payment of costs is not  
10 made by the licensee, the board may enforce the order of payment by bringing an  
11 action in any appropriate court. This right of enforcement shall be in addition to  
12 any other rights the board may have as to any licensee directed to pay costs.

13 (d) In any judicial action for the recovery of costs, proof of the board's  
14 decision shall be conclusive proof of the validity of the order of payment and the  
15 terms for payment.

16 FIRST CAUSE FOR DISCIPLINE

17 (Convictions)

18 8. Respondent is subject to disciplinary action under sections 2660(d) and  
19 2661 [conviction] in that she has two convictions for driving under the influence of alcohol. The  
20 circumstances are as follows:

21 2001 Conviction

22 9. On or about March 22, 2001, a criminal complaint titled *People of the*  
23 *State of California vs. Jean Marie Swan* was filed in Superior Court, Butte County, case no.  
24 NCR89321. Count 1 charged respondent with a violation of Vehicle Code section 23152(a)  
25 [driving under the influence of alcohol]. Count 2 charged respondent with a violation of Vehicle  
26 Code section 23152(b) [driving while having a .08% or more blood alcohol content.]

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10. On or about May 31, 2001, respondent appeared before Judge James F. Reilley and entered a plea of no contest to Count 2, and admitted to a blood alcohol content of .19% at the time of arrest. The Court accepted the plea and dismissed Count 1. Respondent was placed on probation for 36 months, and ordered to report to jail on June 4, 2001 and serve 48 hours in jail. She was ordered to pay a fine of \$1,248.00 plus \$25.00, and pay a restitution fine fund of \$100.00. The Court reserved jurisdiction to order restitution in such amount as may be appropriate upon filing of a request by the victim or District Attorney. Her driver's license was restricted for 90 days per Vehicle Code section 13202.5; she was ordered to report to a Compliance Specialist on June 8, 2001 and attend a Level 1 school. Standard terms of probation were ordered as well.

## 2003 Conviction

11. On or about September 6, 2002, a criminal complaint titled *People of the State of California vs. Jean Marie Swan* was filed in Superior Court, Contra Costa County, case no. 206307-1. Count 1 charged respondent with a violation of Vehicle Code section 23152(a) Respondent's May 31, 2001 conviction was separately alleged as a prior conviction. The Complaint contained a special allegation pursuant to Vehicle Code section 23578 that respondent had a blood alcohol content of .20% and more at the time of the offense. Count 2 charged respondent with a violation of Vehicle Code section 23152(b) [driving while having a .08% or more blood alcohol content.]

12. On or about January 15, 2003, respondent appeared and entered a plea of no contest to Count 1, Vehicle Code section 23152(a) with one prior conviction. The Court accepted the plea and dismissed Count 2. Respondent was sentenced as follows: four years probation, standard terms and conditions, imprisoned for 46 days via electronic home detention. She was ordered to contact Custody Alternative Bureau within 15 days; pay a fine of \$1,378.00, pay restitution fine of \$100.00, probation to terminate upon payment of fine/competition of jail sentence, 20 days jail concurrent in lieu of fine. She was ordered to make restitution as determined by the Court Probation Officer; abstain from alcohol, to report to Post Conviction Drinking Driver's Program within 10 days and comply with its rules and fee

1 requirements. Her driving privilege was restricted for one year to driving to and from school.

2 13. Therefore, respondent's 2001 conviction for violating Vehicle Code  
3 section 23152(b) [driving while having a .08% or more blood alcohol content], and her 2003  
4 conviction for violating Vehicle Code section 23152(a), [driving under the influence of alcohol]  
5 with one prior conviction are substantially related convictions and cause to discipline her license  
6 pursuant to Business and Professions code sections 2660(d) and 2661.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
10 decision:

11 1. Revoking or suspending Physical Therapist License Number PT 9262,  
12 issued to Jean Marie Swan;

13 2. Ordering Jean Marie Swan to pay the Physical Therapy Board of  
14 California the reasonable costs of the investigation and enforcement of this case, pursuant to  
15 Business and Professions Code section 2661.5;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: April 08, 2004 .

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20 Original Signed By:  
21 STEVEN K. HARTZELL  
22 Executive Officer  
23 Physical Therapy Board of California  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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